

DIVISION OF REVENUE

TECHNICAL INFORMATION MEMORANDUM 2000-4

DATE: AUGUST 25, 2000

SUBJECT: Form 2070AC, Application for Delaware Research and Development Credits

CONTACT: Ron Kaminski, (302) 577-8445, rkaminski@state.de.us

The purpose of this regulation is to describe the filing requirements for making an Application for Delaware Research and Development Credits under the provisions of Chapter 20 of Title 30 of the Delaware Code.

H.B. No. 103 added a new Subchapter VIII to Chapter 20 which provides for up to \$5 million in Delaware Research and Development Tax Credits to all Delaware taxpayers for qualified research and development expenses in a taxable year. The credit is equal to (a) 10% of the excess of the taxpayer's total Delaware qualified research and development expenses over its base amount (as defined by § 41(c) of the Internal Revenue Code, with some modifications), or (b) 50% of Delaware's apportioned share of taxpayer's federal research and development tax credits, with modifications. In no year may the Delaware Research and Development Tax Credits exceed 50% of the taxpayer's qualified tax liability. Unused credits may be carried forward. (References, Title 30 Delaware Code §§ 2010, 2023, 2024, and addition of §§ 2070-2075; effective for Delaware Research and Development expenses incurred after December 31, 1999, and before January 1, 2006.)

Form 2070AC, Application and Computation Schedule for Claiming Delaware Research and Development Tax Credits, **must be filed by September 15th after the end of the taxable period to which such credits are to be applied.** Because of the newness of this legislative change and, in particular, in recognition of the short time allowed for corporations with tax years ending between January 1st and September 15th, the due date is extended to November 15th.

William M. Remington
Director of Revenue

APPLICATION AND COMPUTATION SCHEDULE FOR CLAIMING
DELAWARE RESEARCH AND DEVELOPMENT TAX CREDITS

FORM 2070AC MUST BE COMPLETED AND SUBMITTED ON OR BEFORE SEPTEMBER 15TH AFTER THE END OF THE TAXABLE YEAR DURING WHICH THE QUALIFIED RESEARCH & DEVELOPMENT EXPENSES WERE MADE.

PART A -- NAME AND ADDRESS**1. Federal Employer Identification Number****TAX PERIOD ENDING DATE**

(MM / DD / YY)

1 ---

____ / ____ / ____

2. Name of Taxpayer**3. Address****4. Delaware Address (if different from above).****5. Contact Person****Telephone Number****Fax Number****PART B -- DELAWARE RESEARCH & DEVELOPMENT ELECTION AND COMPUTATION**

SELECT A METHOD TO COMPUTE THE DELAWARE RESEARCH & DEVELOPMENT CREDIT. ONLY ONE METHOD MAY BE SELECTED TO COMPUTE THE CREDIT. THE METHOD USED TO COMPUTE THE DELAWARE RESEARCH & DEVELOPMENT CREDIT IS AN ANNUAL ELECTION. THE ELECTION IS INDEPENDENT OF THE METHOD USED TO COMPUTE THE FEDERAL RESEARCH & DEVELOPMENT CREDIT. **PLEASE ATTACH A COPY OF FEDERAL FORM 6765 TO THIS APPLICATION. IF A CONSOLIDATED CORPORATE INCOME TAX RETURN IS FILED, PLEASE ATTACH A PROFORMA FORM 6765 FOR THE CORPORATE APPLICANT.**

___ **METHOD A - Ten percent of the excess of the taxpayer's total Delaware qualified research and development expenses for the taxable year over the taxpayer's Delaware base amount.**

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|--|----|---------|
| 1. Total Delaware Qualified R&D Expenses for the 4 Years Preceding the Credit Year | \$ | _____ |
| 2. Total Delaware Gross Receipts for the 4 Years Preceding the Credit Year | \$ | _____ |
| 3. Delaware Fixed Based Percentage. Divide Line 1 by Line 2 | | _____ % |
| 4. Average Annual Gross Receipts for the 4 Years Preceding the Credit Year | \$ | _____ |
| 5. Delaware Base Amount. Multiply Line 3 by Line 4 | \$ | _____ |
| 6. Total Delaware Qualified R&D Expenses for the Credit Year | \$ | _____ |
| 7. Subtract Line 5 from Line 6 | \$ | _____ |
| 8. Multiply Line 6 by 50% | \$ | _____ |
| 9. Enter the Smaller of Line 7 or Line 8 | \$ | _____ |
| 10. Delaware R&D Credit. Multiply Line 9 by 10% | \$ | _____ |

___ **METHOD B - Fifty percent of Delaware's apportioned share of taxpayer's federal research and development tax credit calculated using the alternative incremental credit method under Section 41(c)(4) of the Internal Revenue Code of 1986, using federal definitions and methodology.**

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|---|----|---------|
| 1. Federal Alternative Incremental Credit from Line 39, Federal Form 6765 | \$ | _____ |
| 2. Delaware Qualified R&D Expenses for the Credit Year | \$ | _____ |
| 3. Total Qualified R&D Expenses for the Credit Year | \$ | _____ |
| 4. Divide Line 2 by Line 3 | | _____ % |
| 5. Multiply Line 1 by Line 4 | \$ | _____ |
| 6. Delaware R&D Credit. Multiply Line 5 by 50% | \$ | _____ |

THE TOTAL AMOUNT OF CREDITS APPROVED BY THE DIRECTOR WITH RESPECT TO ALL APPLICANTS FOR THE RESEARCH & DEVELOPMENT TAX CREDITS SHALL NOT EXCEED \$5,000,000 IN ANY FISCAL YEAR. IF THE AMOUNT OF RESEARCH & DEVELOPMENT TAX CREDITS FOR WHICH ALL TAXPAYERS APPLIED IN ANY FISCAL YEAR EXCEEDS \$5,000,000, THEN THE RESEARCH DEVELOPMENT TAX CREDITS TO BE RECEIVED BY EACH APPLICANT SHALL BE THE PRODUCT OF \$5,000,000 MULTIPLIED BY A FRACTION, THE NUMERATOR OF WHICH IS THE ELIGIBLE RESEARCH & DEVELOPMENT TAX CREDITS APPLIED FOR BY THE APPLICANT AND THE DENOMINATOR IS THE TOTAL OF ALL ELIGIBLE RESEARCH & DEVELOPMENT TAX CREDITS APPLIED FOR BY ALL APPLICANTS.

NAME

TITLE

DATE

**GENERAL INSTRUCTIONS FOR COMPLETION OF
FORM 2070AC 0007**

Any taxpayer that incurs qualified research and development expenses in a taxable year may apply for a research and development tax credit to be applied against the Delaware income tax. The application must be submitted on Form 2070AC 0007 by September 15th after the end of the taxable year during which the qualified research and development expenses were made.

A taxpayer may elect a Delaware research and development tax credit for the taxable year equal to: (1) 10% of the excess of the taxpayer's total Delaware qualified research and development expenses for the taxable year over the taxpayer's Delaware base amount, or (2) 50% of Delaware's apportioned share of taxpayer's federal research and development tax credit calculated using alternative incremental credit method under Section 41(c)(4) of the Internal Revenue Code of 1986, using federal definitions and methodology. Delaware's apportioned share of the federal credit shall be the amount of the alternative incremental credit the taxpayer can claim under Section (c)(4), multiplied by a percentage equal to the ratio of the taxpayer's Delaware qualified research and development expenses for the taxable year to the taxpayer's total qualified research and development expenses for the taxable year. By December 15th following the date of the application, the Director shall notify the taxpayer of the amount of the taxpayer's approved Delaware research and development tax credit. **Contact Person: Ron Kaminski, (302) 577-8445, rkaminski@state.de.us.**

SPECIFIC INSTRUCTIONS

SELECT A METHOD TO COMPUTE THE DELAWARE RESEARCH & DEVELOPMENT CREDIT. ONLY ONE METHOD MAY BE SELECTED TO COMPUTE THE CREDIT. PLEASE ATTACH A COPY OF FEDERAL FORM 6765 TO THIS APPLICATION. IF A CONSOLIDATED CORPORATE INCOME TAX RETURN IS FILED, PLEASE ATTACH A PROFORMA FEDERAL FORM 6765 FOR THE CORPORATE APPLICANT.

METHOD A – TEN PERCENT OF THE EXCESS OF THE TAXPAYER'S TOTAL DELAWARE QUALIFIED RESEARCH & DEVELOPMENT EXPENSES FOR THE TAXABLE YEAR OVER THE TAXPAYER'S DELAWARE BASE AMOUNT.

- Line 1 Enter the total Delaware qualified research & development expenses for the four years immediately preceding the credit year.
- Line 2 Enter the total Delaware gross receipts for the four years immediately preceding the credit year.
- Line 3 Divide Line 1 by Line 2. This is the Delaware Fixed Base Percentage.
- Line 4 Enter the average annual gross receipts for the four years immediately preceding the credit year.
- Line 5 Multiply Line 3 by Line 4. This is the Delaware Base Amount.
- Line 6 Enter the total Delaware qualified research & development expenses for the credit year.
- Line 7 Subtract Line 5 from Line 6. If the result is zero or less, enter zero.
- Line 8 Multiply Line 6 by 50%.
- Line 9 Enter the smaller of Line 7 or Line 8.
- Line 10 Multiply Line 9 by 10%. This is your Delaware Research & Development Credit.

METHOD B – FIFTY PERCENT OF DELAWARE'S APPORTIONED SHARE OF TAXPAYER'S FEDERAL RESEARCH & DEVELOPMENT TAX CREDIT CALCULATED USING THE ALTERNATIVE INCREMENTAL CREDIT METHOD UNDER SECTION 41(C)(4) OF THE INTERNAL REVENUE CODE OF 1986, USING FEDERAL DEFINITIONS AND METHODOLOGY.

- Line 1 Enter the Federal Alternative Incremental Credit from Line 39, Federal Form 6765.
- Line 2 Enter the Delaware qualified research & development expenses for the credit year.
- Line 3 Enter all qualified research & development expenses for the credit year.
- Line 4 Divide Line 2 by Line 3.
- Line 5 Multiply Line 1 by Line 4.
- Line 6 Multiply Line 5 by 50%. This is your Delaware Research & Development Credit.

THE TOTAL AMOUNT OF CREDITS APPROVED BY THE DIRECTOR WITH RESPECT TO ALL APPLICANTS FOR THE RESEARCH & DEVELOPMENT TAX CREDITS SHALL NOT EXCEED \$5,000,000 IN ANY FISCAL YEAR. IF THE AMOUNT OF RESEARCH & DEVELOPMENT TAX CREDITS FOR WHICH ALL TAXPAYERS APPLIED IN ANY FISCAL YEAR EXCEEDS \$5,000,000, THEN THE RESEARCH DEVELOPMENT TAX CREDITS TO BE RECEIVED BY EACH APPLICANT SHALL BE THE PRODUCT OF \$5,000,000 MULTIPLIED BY A FRACTION, THE NUMERATOR OF WHICH IS THE ELIGIBLE RESEARCH & DEVELOPMENT TAX APPLIED FOR BY THE APPLICANT AND THE DENOMINATOR IS THE TOTAL OF ALL ELIGIBLE RESEARCH & DEVELOPMENT TAX CREDITS APPLIED FOR BY ALL APPLICANTS